

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

SHERMAN STEWART,

Petitioner,

VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. 2:13-CV-42

OPINION AND ORDER OF TRANSFER

This is a habeas action filed by a state prisoner incarcerated at the McConnell Unit in Beeville, Texas (D.E. 1). Petitioner was convicted on his plea of guilty to an undisclosed felony in the 89th Judicial District Court of Wichita County, Texas, and sentenced in April 2009 to serve twelve years in the custody of TDCJ-CID (*Id.*).


A habeas action may be filed either in the district where petitioner is in custody or in the district in which petitioner was convicted. 28 U.S.C. § 2241(d); Wadsworth v. Johnson, 235 F.3d 959 (5th Cir. 2000). Petitioner's place of incarceration is in the Corpus Christi Division of the Southern District of Texas, 28 U.S.C. § 124(b)(6), and he was convicted by a court located in the Wichita Division of the Northern District of Texas. 28 U.S.C. § 124(a)(6).

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought. 28 U.S.C. §§ 1404(a) and 1406(a). A habeas application may be transferred in furtherance of justice to the district court within which the State court was

held which convicted and sentenced the petitioner. 28 U.S.C. § 2241(d). Because petitioner was convicted in Wichita County, it is more convenient and would further the interests of justice for this action to be handled in the Wichita Division of the Northern District of Texas. The records of his conviction, the prosecutor and defense lawyer, and the witnesses are all located in the Wichita Division of the Northern District of Texas.

Accordingly, it is ordered that the Clerk of the Court TRANSFER this action to the United States District Court for the Northern District of Texas, Wichita Division. All pending motions are denied as moot and subject to renewal after the case is transferred.

SIGNED and ENTERED this 21st day of February, 2013.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE